

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4453-14
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB Nos. 1695, 1742 & 1674
Subject: Drunk Driving; Motor Vehicles; Licenses - Drivers; Crimes and Punishment; Criminal Procedure; Administrative Law; Alcohol; Courts; Revenue Department
Type: Original
Date: June 7, 2010

Bill Summary: This proposal modifies provisions relating to intoxication-related offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$15,500 to Unknown)	(\$2,500 to Unknown)	(\$2,500 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$15,500 to Unknown)	(\$2,500 to Unknown)	(\$2,500 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Road	\$0 or (\$16,000,000)	\$0 or (\$16,000,000)	\$0 or (\$16,000,000)
Highway Safety	\$0 or \$16,000,000	\$0 or \$16,000,000	\$0 or \$16,000,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health, Department of Health and Senior Services, Department of Public Safety - Office of the Director, Missouri State Water Patrol, and the Missouri State Highway Patrol, Department of Social Services, Office of Prosecution Services, and the Office of State Treasurer** assume this proposal would have no fiscal impact on their respective agencies.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Attorney General (AGO)** assume this proposal creates new felonies, and AGO would represent the State in any appeals from convictions. AGO assumes that any potential costs from the proposal could be absorbed with existing resources. If multiple cases arise from the passage of this proposal, the AGO may seek additional staff to handle the increase in workload.

Officials from the **Department of Transportation (MoDOT)** state they have submitted a letter to the National Highway Traffic Safety Administration asking for a review by legal counsel to ensure compliance with 23 USC 164 and 23 USC 410 requirements as it relates to the language in the bill dealing with DWI courts. MoDOT has received a response back to this request. MoDOT may be in jeopardy of being found out of compliance and there could be a transfer of approximately \$16 million annually from the Road Fund to the Highway Safety Program within MoDOT. The money could no longer be used strictly for highway projects but would be used to make safety improvements on Missouri's roadways. MoDOT would still get the same amount of federal funds but would be limited to the use of such funds.

This section of the proposal has been amended to create incentives for offenders to enter DWI court, and it does this by increasing the mandatory jail time for prior and persistent offenders,

ASSUMPTION (continued)

while also offering an alternative of participation in DWI court. MoDOT states that the problem is that 23 USC 164 requires either mandatory jail time or a certain amount of community service for repeat offenders, but this proposal would allow prior and persistent offenders to participate in DWI court and to thereby avoid both jail time and mandatory community service.

Oversight has reflected the transfer from the Road Fund to the Highway Safety Fund as \$0 or \$16,000,000, as it is not known if Department of Transportation will be found to be out of compliance with 23 USC 164 and 23 USC 410. If MoDOT is not found to be out of compliance, there will be no transfer of funds.

Officials from the **Department of Corrections (DOC)** state the bill proposes to specify that courts may establish DWI dockets or courts and modifies other criminal and administrative procedure for certain intoxication-related offenses. The penalty provision component of this bill within existing statutes that will result in potential fiscal impact for DOC, is for up to a class B felony.

Changing the fact that DWI cases are transferred from municipal to state court for prior offenders will cause a fiscal impact for the DOC. These offenders would now be supervised or incarcerated by the DOC. Additional treatment sources could also be needed to meet the growing number of referrals.

DOC assumes they cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY09 average of \$16.04 per offender, per day or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender, per day or an annual cost of \$1,354 per offender).

At this time, the DOC is unable to determine the exact number of people who would be convicted under the provisions of this bill and whether or not additional inmate beds may be required as a consequence of passage of this proposal. The cumulative effect of various new legislation, if adopted as statute may require institutional facility expansion.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department.

LMD:LR:OD (12/02)

ASSUMPTION (continued)

§478.001; 478.003; §478.007

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation makes significant revisions to the driving while intoxicated law.

The proposed legislation allows a circuit court to establish a DWI docket or court to provide an alternative for the judicial system to dispose of cases which stem from driving while intoxicated. This docket or court may operate in conjunction with a drug court. Since the language is permissive, CTS has no way of knowing how many courts would create the programs. Although unable to provide an estimate at this time, CTS assumes the cost would exceed \$100,000.

§577.006

The legislation proposes that each municipal judge shall receive adequate instruction on the laws related to intoxication-related traffic offenses as defined in §577.023. A one-day municipal judge training provided in six regions across the state would cost approximately \$15,500.

Oversight assumes the state-wide training would be necessary in FY 11. In subsequent years, **Oversight** assumes training could be held at one site for new municipal judges that are not licensed to practice law.

§302.309; 577.010; 577.012; 577.054

Officials from the **Department of Revenue (DOR)** provided responses regarding the above sections that could result in minimal impact. DOR may see an increase of court ordered Limited Driving Privileges as well as an increase of DWI and BAC convictions to add to the driving record. DOR should also see a decrease in the amount of expungements.

Officials from the **Office of State Public Defender** did not respond to a request for fiscal impact. **Oversight** assumes, for fiscal note purposes only, that any associated costs will not be reflected in the fiscal note.

Oversight assumes cities could incur losses of fees that are no longer considered court costs, charges, or fines as a result of the proposed legislation. Oversight has reflected the statewide loss to local political subdivisions as (Unknown).

ASSUMPTION (continued)

Officials from **Boone County** believe the fiscal impact of this bill, particularly the changes to §577.010 which require minimum periods of incarceration based upon blood alcohol levels, would be significant. Boone County estimates that their Circuit Court sees approximately 10 DWI cases per week where the BAC is over .15 and 5 cases per week where the BAC is over .20. At an average cost per day of incarceration at \$64/day in Boone County, those cases alone will, at a minimum, cost the county an additional \$149,760, which does not include related costs of medical care and other incidental costs that arise from housing prisoners in the County jail. In addition, the City of Columbia's municipal court has estimated that approximately 200 cases per year will be implicated by the BAC over .15, causing another expense of at least an additional \$12,800.00.

Officials from the **City of Centralia** state this proposal will have no fiscal impact on their city.

Officials from the **Boone County Sheriff's Department** and the **Jefferson City Police Department** state this proposed legislation will have no fiscal impact on their respective departments.

Officials from the Office of State Public Defender did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Costs – Office of State Courts</u>			
Administrator (CTS)			
Municipal judge training (§577.006)	(\$15,500)	(\$2,500)	(\$2,500)
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$15,500 to Unknown)</u>	<u>(\$2,500 to Unknown)</u>	<u>(\$2,500 to Unknown)</u>

FISCAL IMPACT - State Government
(continued)FY 2011
(10 Mo.)

FY 2012

FY 2013

ROAD FUNDLosses – Department of Transportation

Restrictions on use of federal funds

\$0 or
(\$16,000,000)\$0 or
(\$16,000,000)\$0 or
(\$16,000,000)**ESTIMATED NET EFFECT ON
ROAD FUND**\$0 or
(\$16,000,000)\$0 or
(\$16,000,000)\$0 or
(\$16,000,000)**HIGHWAY SAFETY FUND**Revenues – Department of Transportation

Restrictions on use of federal funds

\$0 or
\$16,000,000\$0 or
\$16,000,000\$0 or
\$16,000,000**ESTIMATED NET EFFECT ON
HIGHWAY SAFETY FUND**\$0 or
\$16,000,000\$0 or
\$16,000,000\$0 or
\$16,000,000FISCAL IMPACT - Local GovernmentFY 2011
(10 Mo.)

FY 2012

FY 2013

LOCAL GOVERNMENTCost - Counties - Costs associated with
DWI docket or court (§478.001;
§478.003; §478.007; §577.010)\$0 or
(Unknown)\$0 or
(Unknown)\$0 or
(Unknown)Losses – Cities

Court fees and fines (§479.170)

(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENT**(Unknown)(Unknown)(Unknown)

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposed legislation relates to intoxication-related traffic offenses.

§478.001, 478.003, 478.007

This proposal specifies that any circuit court may establish a docket or court to dispose of cases where a person has pleaded guilty to driving while intoxicated or driving with excessive blood alcohol content. A person is eligible for this docket or court if he or she operated a motor vehicle with at least .15 blood alcohol content, has had a previous conviction for an intoxication-related traffic offense, or has two or more previous alcohol-related enforcement contacts.

§479.170

Any offense involving the operation of a vehicle in an intoxicated condition shall not be cognizable in municipal court, if the defendant has been convicted of two or more previous intoxicated-related traffic offenses or has had two or more previous alcohol-related enforcement contacts.

§577.006

Municipal judges shall receive instruction on intoxication-related traffic offenses including a review of state laws on intoxication-related traffic offenses, including jurisdiction issues relating to such offenses, reporting requirements, and required assessment under the substance abuse traffic offender program (SATOP). Each municipal judge shall adopt a written policy requiring court personnel to report all dispositions for all charges for intoxication-related traffic offenses to the Highway Patrol Central Repository. Each municipal court must provide a copy of its policy to the Office of State Courts Administrator (OSCA) and the Highway Patrol. OSCA may create a model policy.

Each municipal court shall prepare a report every six months to be submitted to the circuit court en banc regarding the number and disposition of intoxication-related traffic offenses.

L.R. No. 4453-14

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Page 9 of 9

June 7, 2010

SOURCES OF INFORMATION

Office of State Courts Administrator

Office of Attorney General

Office of Secretary of State

Administrative Rules Division

Department of Transportation

Department of Mental Health

Department of Corrections

Department of Health and Senior Services

Department of Revenue

Department of Social Services

Department of Public Safety

Office of the Director

Missouri State Highway Patrol

Missouri State Water Patrol

Office of Prosecution Services

Local Law Enforcement

Boone County Sheriff's Department

Jefferson City Police Department

Cities and Counties

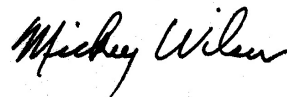
City of Centralia

Jackson County

Boone County

NOT RESPONDING

Office of the State Public Defender



Mickey Wilson, CPA

Director

June 7, 2010